

**Baker & Hostetler LLP**

45 Rockefeller Plaza  
New York, NY 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Kathryn M. Zunno  
Esterina Giuliani

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

COHMAD SECURITIES CORPORATION, *et al.*,

Defendants.

Adv. Pro. No. 09-01305 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL  
OF DEFENDANT THE JOINT TENANCY OF THE ESTATE OF PHYLLIS  
GUENZBURGER AND FABIAN GUENZBURGER AND DEFENDANT THE JOINT  
TENANCY OF ROBERT PINCHOU AND FABIAN GUENZBURGER FROM  
ADVERSARY PROCEEDING WITH PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and defendants The Joint Tenancy of the Estate of Phyllis Guenzburger and Fabian Guenzburger, and The Joint Tenancy of Robert Pinchou and Fabian Guenzburger, by and through their counsel, The Hoffinger Firm, PLLC (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On June 22, 2009, the Trustee commenced this adversary proceeding (the “Adversary Proceeding”) against, among others, The Joint Tenancy of Phyllis Guenzburger and Fabian Guenzburger, and The Joint Tenancy of Robert Pinchou and Fabian Guenzburger by filing his original complaint (ECF No. 1).

2. On October 8, 2009, the Trustee filed his First Amended Complaint (the “Complaint”) in the Adversary Proceeding against, among others, The Joint Tenancy of Phyllis Guenzburger and Fabian Guenzburger, and The Joint Tenancy of Robert Pinchou and Fabian Guenzburger (ECF No. 82).

3. After the disposition of proceedings on motions to withdraw the reference and motions to dismiss the Complaint in whole or in part, The Joint Tenancy of Phyllis Guenzburger and Fabian Guenzburger, and The Joint Tenancy of Robert Pinchou and Fabian Guenzburger filed an answer to the Complaint on September 19, 2011 (ECF No. 234), an amended answer on

October 10, 2011 (ECF No. 248), and a second amended answer on May 14, 2012 (ECF No. 295).

4. Phyllis Guenzburger died on December 13, 2014. The Joint Tenancy of the Estate of Phyllis Guenzburger and Fabian Guenzburger was substituted as a defendant in place of The Joint Tenancy of Phyllis Guenzburger and Fabian Guenzburger by Order dated September 17, 2015 (ECF No. 352).

5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii) and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal with prejudice of all of the Trustee's claims against defendant The Joint Tenancy of the Estate of Phyllis Guenzburger and Fabian Guenzburger and defendant The Joint Tenancy of Robert Pinchou and Fabian Guenzburger.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective estates, personal representatives, executors, administrators, heirs, successors and assigns, and upon all creditors and parties in interest.

7. This Stipulation may be signed by the Parties, through their counsel, in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

8. Upon the dismissal of defendant The Joint Tenancy of the Estate of Phyllis Guenzburger and Fabian Guenzburger and defendant The Joint Tenancy of Robert Pinchou and Fabian Guenzburger, the caption of the Adversary Proceeding is hereby amended to delete defendant The Joint Tenancy of the Estate of Phyllis Guenzburger and Fabian Guenzburger and defendant The Joint Tenancy of Robert Pinchou and Fabian Guenzburger from the caption. The

amended caption shall appear as indicated in Exhibit A to this Stipulation.

Dated: February 2, 2016  
New York, New York

**BAKER HOSTETLER LLP**

By: s/ Esterina Giuliani  
Esterina Giuliani  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
Email: egiuliani@bakerlaw.com  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Kathryn M. Zunno  
Email: kzunno@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,  
Trustee for the Substantively Consolidated  
SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and the estate  
of Bernard L. Madoff*

**THE HOFFINGER FIRM PLLC**

By: s/ Fran Hoffinger  
Fran Hoffinger  
150 East 58<sup>th</sup> Street  
16<sup>th</sup> Floor  
New York, NY 10155  
Telephone: 212.421.4000 ext. 233  
Facsimile: 212.223.3857  
Email: fhoffinger@hoffingerlaw.com

*Attorneys for defendants The Joint  
Tenancy of the Estate of Phyllis  
Guenzburger and Fabian  
Guenzburger and The Joint Tenancy  
of Robert Pinchou and Fabian  
Guenzburger*

**SO ORDERED** this 2<sup>nd</sup> day of February 2016.

/s/ STUART M. BERNSTEIN  
HONORABLE STUART M. BERNSTEIN  
United States Bankruptcy Judge